

From: Sharon Lerner [sharon.lerner@theintercept.com]
Sent: 12/22/2021 5:15:12 PM
To: Hamilton, Lindsay [Hamilton.Lindsay@epa.gov]
CC: Daguillard, Robert [Daguillard.Robert@epa.gov]; Carroll, Timothy [Carroll.Timothy@epa.gov]; Dunton, Cheryl [Dunton.Cheryl@epa.gov]
Subject: Re: Next whistleblower piece
Attachments: signature.asc

Same. Thank you and have a good holiday
Sharon

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PGP:
CB29 D9FF 9285 3205 087E 83A1 0C30 2F39 4F30 8BFE

On Dec 22, 2021, at 12:07 PM, Hamilton, Lindsay <Hamilton.Lindsay@epa.gov> wrote:

Thanks Sharon, saw it this AM. I appreciate your effort in engaging with us on it!

From: Sharon Lerner <sharon.lerner@theintercept.com>
Sent: Wednesday, December 22, 2021 11:47 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Daguillard, Robert <Daguillard.Robert@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>
Subject: Re: Next whistleblower piece

Thank you, Lindsay. The story is up
<https://theintercept.com/2021/12/22/epa-whistleblowers-carcinogen-paint-solvent/>

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On Dec 21, 2021, at 5:48 PM, Hamilton, Lindsay <Hamilton.Lindsay@epa.gov> wrote:

Hi Sharon,

A bit more for you here following up on our conversation.

While the PMN substance in question was subject to the polymer exemption, the company still submitted a PMN to the agency. Since the company did submit the PMN, EPA conducted the risk assessment and did not identify any hazards or risks associated with the PMN substance and issued a “not likely” determination.

Companies do not have to use the polymer exemption, and at times a company will choose to submit a PMN for business/other reasons (even if they qualify under the exemption). For example, some companies have conveyed to EPA that they cannot get their customer to use their product until it is on the TSCA Inventory. In order to get on the Inventory, a company must go through the PMN process and EPA will conduct a full risk assessment.

Thanks,
Lindsay

From: Sharon Lerner <sharon.lerner@theintercept.com>
Sent: Tuesday, December 21, 2021 10:10 AM
To: Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>
Cc: Daguiard, Robert <Daguiard.Robert@epa.gov>; Carroll, Timothy <Carroll.Timothy@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>
Subject: Re: Next whistleblower piece

Hi Lindsay-

I just wanted to follow up because, upon reading your response, I fear that I didn't make it clear that I already discuss the memo you attached in the story. In fact I link to it. And I note that the majority of scientists who were discussing the issue of PCBTF in the paint assessment did NOT agree with the interpretation you give of the memo - that it meant that it was subject to the polymer exemption. To be clear, that was the central dispute, the whistleblowers (3 in this case) and several other EPA staff members who were involved in the discussions — and whose emails I've reviewed — did not believe that the memo made it clear that the dangers of PCBTF should not be included in the assessment. Instead, they had a variety of interpretations of the memo, including that 1) the dangers of PCBTF should be included in the assessment, 2) PCBTF should be sent to the existing chemicals for assessment, 3) if NCD did not include the risks in the assessment, other actions should be taken.

One whistleblower said: "There's a final paragraph stating that if there is nothing done, if we're not going to do the review ourselves, at a bare minimum, the risk managers should be communicating what we found to the chemical company so that they know that they have to take some sort of action."

I'm just sending this in case you want to clarify your response at all.
Thanks,
Sharon

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On Dec 20, 2021, at 8:26 PM, Hamilton, Lindsay
<Hamilton.Lindsay@epa.gov> wrote:

Hi Sharon,

Here is a response for you. Thanks so much.

EPA and the Office of Chemical Safety and Pollution Prevention are committed to the agency's mission to protect human health and the environment.

Regarding the specific PMN in question:

The PMN substance that is the question of this inquiry is a polymer contained in a paint. The PMN substance is a polymer and it qualifies for the polymer exemption.

As background, the 1985 memo, attached, describes how to address a circumstance in which an existing chemical is included as an intentional component of a PMN substance and when that existing chemical poses risk. Under the referenced policy, the solvent would be referred to the Existing Chemical Program and would not be addressed under the new chemical review because the solvent in question is not intentionally part of the PMN substance. The relevant language from the memo that describes this exemption is found on page 9, item #1. The 1985 memo, while written in the context of TSCA as it existed in 1985, contains guidance that remains useful in reviewing new chemicals under the amended law.

When Congress wrote TSCA in 1976 it exempted every chemical in commerce from having to go through the new chemicals assessment process. The 2016 amendments to TSCA direct EPA to do risk evaluations on the existing chemicals that were grandfathered in under the original law and requires EPA to have at least 20 risk evaluations in process at any given time. EPA is meeting those requirements. While one can accurately state that many of the chemicals that were grandfathered into the 1976 law may pose risks and remain unrestricted under TSCA, the PMN substance subject to this inquiry was not handled inappropriately or inconsistently with TSCA.

Regarding scientific integrity:

Restoring scientific integrity has been a top priority across the Agency since the beginning of the Biden-Harris Administration. Significant efforts are underway to understand and address concerns that have been raised. We are continuing to make improvements to the program and are cooperating fully with the ongoing IG investigation.

EPA's new chemicals program has been engaging in targeted, all-hands-on deck efforts to catalogue, prioritize and improve its procedures, recordkeeping and decision-making practices related to review and management of new chemicals under TSCA. The new chemicals program has already implemented several important changes to provide additional opportunities for resolution of differing scientific opinions, and to allow input into the decision-making by EPA subject matter experts outside of the division. This includes, for example, a revised process for review and finalization of human health risk assessments, and the formation of a new advisory body within the program to review and consider both scientific and science policy issues related to new chemical submissions.

The following are examples of additional actions OCSPP has already taken to address scientific integrity concerns across the office:

- Ongoing cooperation with Inspector General's investigation;
- Implementation of several new processes for scientists to elevate their concerns and get a review wherever there's disagreement;
- A change in the performance metric for the New Chemicals Division, such that expediency of reviews is not the only measure of success, see FY 2022-2026 [strategic plan draft](#);
- Series of scientific integrity trainings for the entire office to emphasize the importance of these policies;
- Independent contractor review of the TSCA New Chemicals program to capture feedback from employees and management about any potential workplace barriers and opportunities for organizational improvement; and
- Ongoing collaboration with EPA's Office of Research and Development on furthering scientific research relevant to new chemical reviews.

Responses to your specific questions:

QUESTION: IS THIS ACCURATE, THAT MANUFACTURERS "ALMOST ALWAYS" SUBMIT THE INFORMATION ABOUT THEIR PRODUCTS IN PMNS AS CBI? OR IS IT ALWAYS THE CASE? OR JUST SOMETIMES?]

EPA often receives CBI claims associated with various information within PMNs, and the specific claims (i.e., types of information claimed as CBI) will vary case to case.

[QUESTION: WHEN ARE THOSE 20 ASSESSMENTS EXPECTED TO BE FINALIZED?]

The policy changes associated with TSCA risk evaluations that were announced on June 30 will be carried through to all future risk evaluations, including the next 20 and ongoing manufacturer requested risk evaluations. The Agency is reviewing the next 20 chemicals to determine the extent of the effect of policy changes on the scopes of the risk evaluations. Upon completion of this review, EPA intends to provide updates regarding any changes. Generally, these risk evaluations represent a multi-year effort that, under TSCA, can take up to 3.5 years from the designation as a high-priority chemical to complete.

[QUESTION: IS THERE ANY UPDATE ON THIS? ARE THE 8ES AVAILABLE YET IN CHEMVIEW?]

Due to overarching (staff and contractor) resource limitations, the agency was not able to continue the regular publication of 8(e) submissions in ChemView, a heavily manual process, after 1/1/2019. EPA has continued to take in and review 8e submissions; however, a single staff person was dedicated to processing the submissions for posting to ChemView. That staff person retired in December 2018. Other staff within the unit that would historically also do this type of work were fully occupied conducting other work to increase transparency associated with TSCA new chemicals submissions in response to a commitment made by the past EPA Administrator to Senator Carper. See: <https://insideepa.com/daily-news/win-dunns-confirmation-epa-vows-revise-key-tsca-programs>.

The TSCA program has been and remains incredibly underfunded. The previous Administration never asked Congress for the necessary resources to reflect the agency's new responsibilities under amended TSCA. The Biden-Harris Administration has asked for significantly more resources for this program in the 2022 budget request to ensure we're meeting our obligations under TSCA, most importantly protecting human health and the environment.

In the future, as resources allow, EPA will continue to strive to make TSCA 8(e) reports publicly available in ChemView in the interest of increased transparency. In the meantime, in 2021 EPA reinstated contractor funding to ensure all TSCA 8(e) reports receive initial screening and any serious health and safety risks are flagged for further review. EPA is also currently transforming the 8(e) publication process to be more automated and to the extent that resources allow, will resume making these submission types publicly available in ChemView again soon.

Thanks,
Lindsay

From: Sharon Lerner <sharon.lerner@theintercept.com>
Sent: Monday, December 20, 2021 11:37 AM
To: Daguillard, Robert <Daguillard.Robert@epa.gov>
Cc: Carroll, Timothy <Carroll.Timothy@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>
Subject: Re: Next whistleblower piece

Yes confirming that we can update at any point after publication.
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On Dec 20, 2021, at 11:35 AM, Sharon Lerner
<sharon.lerner@theintercept.com> wrote:

We can update at any point, I believe. I put in a note to my editor to confirm, will let you know as soon as he gets back to me.

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PGP:
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On Dec 20, 2021, at 11:27 AM,
Daguillard, Robert
<Daguillard.Robert@epa.gov> wrote:

Thanks, Sharon. Duly noted. How late can you update your story?

From: Sharon Lerner
<sharon.lerner@theintercept.com>
Sent: Monday, December 20, 2021
11:24 AM
To: Daguillard, Robert

<Daguillard.Robert@epa.gov>

Cc: Carroll, Timothy

<Carroll.Timothy@epa.gov>; Hamilton,

Lindsay <Hamilton.Lindsay@epa.gov>

Subject: Re: Next whistleblower piece

Robert-

This is going to come out tomorrow. So
sorry for the shorter than usual
turnaround time

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2F39 4F30 8BFE**

On Dec 20, 2021, at
9:08 AM, Daguillard,
Robert
<Daguillard.Robert@ep
a.gov> wrote:

Sorry, Sharon: I'm
sure you realize this
week will see lighter-
than-usual staffing:
We're closed Friday,
to say nothing of staff
going on leave
beforehand. Are you
planning to put this
piece out any time
before, say, the first
of the year? How
urgently do you need
it?

Thanks as always, R.

From: Daguillard,

Robert

<Daguillard.Robert@ep
a.gov>

Sent: Monday,

December 20, 2021

9:04 AM

To: Sharon Lerner
<sharon.lerner@theintercept.com>

Cc: Carroll, Timothy
<Carroll.Timothy@epa.gov>; Hamilton, Lindsay
<Hamilton.Lindsay@epa.gov>; EPA Press Office
<Press@epa.gov>

Subject: RE: Next
whistleblower piece

Good morning
Sharon,

I know your message
is addressed to Tim
and Lindsay, but I
wanted to
acknowledge on their
behalf.

Best as always, R.

From: Sharon Lerner
<sharon.lerner@theintercept.com>

Sent: Monday,
December 20, 2021
8:53 AM

To: EPA Press Office
<Press@epa.gov>

Cc: Carroll, Timothy
<Carroll.Timothy@epa.gov>; Hamilton, Lindsay
<Hamilton.Lindsay@epa.gov>

Subject: Re: Next
whistleblower piece

Hi Tim and Lindsay-
Just circling back on this
to make sure you
received it.
Thanks,
Sharon

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[https://theintercept.com/
staff/sharonlerner/](https://theintercept.com/staff/sharonlerner/)

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On Dec
17,
2021,
at
10:19
AM,
Sharon
Lerner
<sharon.lerner@theintercept.com>
wrote:

Hi Tim
and the
press
office-

I am
writing
with
questions
regarding the
next
article
in the
series
based
on the
EPA
whistle
blowers
. I am
basing
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piece,
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interviews with several EPA employees as well as documents they have shared with me, including screenshots of emails. I am asking whether you want to comment on any of what I've written below and have highlighted in yellow three questions. Can you please get me your response by the end of the day on Monday? Thank you, Sharon

++++

In this piece, I write about the assessment of a paint product that was finalized on December 19, 2019. The paint contained the solvent parachlorobenzotrifluoride, or PCBTF, which made up half of the product by weight. PCBTF presents numerous health hazards, according to a 2009 report from the National Toxicology

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leadership role in the agency, said she felt that the dangers of PCBTF should not be mentioned in the assessment. In a December 18 email, she described the chemical as "just a solvent there as a part of making it." She argued that, because it didn't appear that PCBTF was meant to be an ingredient in the final product, its health effects should

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And
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said "The EPA is supposed to be considering whether worker's exposures could be toxic. This is a failure of EPA to follow the law." I note in the story that the whistle blowers are not allowed to disclose the products name or anything else about it because, as is almost always the case, the manufacturer's submit

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[QUESTION:
WHEN
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ASSESSMENTS
EXPECTED
TO BE
FINALIZED?]

I also
note
that there is
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that
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agency
updates its
assessments
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anyone
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it
learns
about
the
harm
of a
chemical and
refer
back to

my rece
nt story
on
8e sub
mission
s.

[QUEST
ION: IS
THERE
ANY
UPDAT
E ON
THIS?
ARE
THE
8ES
AVAILA
BLE YET
IN
CHEMV
IEW?]

Finally,
I note
that the
whistle
blowers
found
experie
nce of
being u
nable
to pers
uade
their
superi
or of
the
import
ance of
warnin
g the
public
about
PCBTF
both
frustra
ting
and
bafflin
g.

“Why
would
someo
ne
hear

that
there's
a
cancer
risk for
worker
s and
not
even
let
people
know
about
it?" On
e asked
. "Why
would
they
think
that
that's
someth
ing
that
can
just be
ignore
d?"

Sharon
Lerner
Investig
ative
Reporte
r
The
Intercep
t
mobile/
signal
718-
877-
5236
@fastler
ner
[https://t
heinterc
ept.com
/staff/sh
aronler
ner/](https://theintercept.com/staff/sharonlerner/)

PGP:
CB29
D9FF
9285
3205
087E 83
A1 0C30
2F39
4F30
8BFE

<Risks of existing chemicals in PMNs (002).pdf>